

REMARKS

Claims 35-60 are pending. Claims 36-42, 44-45 and 47-60 were indicated as allowable in the Office Action dated March 2, 2007. Independent claims 43 and 58 have been amended to clarify the scope of the inventions defined by these claims. No new matter has been added.

Telephonic Interview

The applicant's attorney thanks the Examiner for the courtesy extended during the brief telephonic interviews of the above-referenced application on February 28, 2007 and March 8, 2007, during which the Examiner advised the applicant's attorney of the nature of the Final Rejection and the applicant's attorney and the Examiner discussed potential amendments to claim 43 to clarify the claim so as to overcome the Examiner's rejection. The amendments to claim 43, and also to claim 58, presented in this response reflect the substance of this discussion.

Section 102

Claims 43 and 46 stand rejected as being anticipated by Bert et al. This rejection is respectfully traversed.

The amendments to independent claim 43 clarify the intended scope of this claim as having the tool being moved along a direction of the long axis, that direction being one of a medial to lateral or lateral to medial approach in contrast to the convention anterior to posterior approach taught by Bert et al.

The interpretation of Bert et al is also objected to in that Bert et al. shows the slot facing the end of both the medial and lateral aspects, whereas claim 43 requires the slot to face only one of a medial aspect or a lateral aspect.

It is noted that although independent claim 58 had been indicated as allowable, similar language to independent 43 had been presented in independent claim 58. A corresponding amendment to independent claim 58 has thus been made to put both claims in condition for allowance.

Dependent claim 46 should be allowable by virtue of the allowance of the underlying independent claim.

Prosecution of this Continuation Application

Applicant's attorney notes that the subject matter of the various claims of the present application claim priority to support in the specification for applications filed at least as early as June 7, 1995, all of which have been incorporated by reference as part of the chain of the claim of priority made for the present application. In addition, it is noted that the subject of the various claims of the present application are directed to subject matter which has not been the subject of the claims of any of the parent applications or issued patents in the chain of the claim of priority and have not been subject to an obviousness-type double patenting rejection. Because the subject matter of the various claims of the present application are different than presented in the earlier applications in the chain of the claim of priority, it is also respectfully submitted that any comments by applicants as to prior art made during the prosecution of claims in any parent

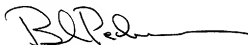
application are not intended to, and are expressly disclaimed from, impacting the scope of the claims of the present application.

Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is requested to telephone the undersigned to arrange for a telephonic interview before any further prosecution of this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Pedersen', with a long horizontal flourish extending to the right.

Brad Pedersen
Registration No. 32,432

Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5774